

CITY OF BROOKLYN, OHIO

ORDINANCE NO. 1999 – 27

INTRODUCED BY: Mayor John M. Coyne, Tom Coyne, John Frey, Kathy Pucci,
Rita Brown, Greg Frey

**AN ORDINANCE AMENDING SECTION 331 ENTITLED,
"OPERATION GENERALLY" OF THE CODIFIED ORDINANCES
OF THE CITY OF BROOKLYN, OHIO BY ENACTING NEW
SECTION 331.45 "AN ORDINANCE TO DEFINE AND REGULATE
THE USE OF MOBILE TELEPHONES WHILE OPERATING A
MOTOR VEHICLE AND DECLARING AN EMERGENCY"**

WHEREAS, the City Council (hereinafter referred to as "Council") has not previously defined and or regulated the use of mobile telephones while operating a motor vehicle in the City; and

WHEREAS, Council, from time to time, has enacted definitions and regulations regarding the operation of a motor vehicle in the City; and

WHEREAS, Council believes that the operation of a motor vehicle on the public roadways while using a telephone may cause the operator to maintain less than full time and attention to the operation of said motor vehicle; and

WHEREAS, Council believes that the regulation of the use of mobile telephone while operating a motor vehicle in the City will enhance the safety of those persons operating motor vehicles as well as pedestrians in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROOKLYN, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1. That Ordinance No. 1999-27 is hereby stated by this Ordinance to read as follows:

Section 1.0 Definitions:

As used in this Ordinance:

- (1) "Mobile Telephone" means, including but not limited to cellular, analog, wireless and digital telephones.
- (2) "Use" means to use a mobile telephone in:
 - (A) Dialing
 - (B) Answering
 - (C) Talking
 - (D) Listening
- (3) "Park" means for an automatic transmission vehicle that the vehicle is in the Park gear; for a standard transmission vehicle that the vehicle is in the neutral gear and the brake is being utilized or otherwise stationary.

Section 1.1 Title and Application of Ordinance

- (A) This Ordinance shall be known and may be cited as the *Brooklyn Mobile Telephone Operation Ordinance*.
- (B) This Ordinance shall be liberally construed and applied to promote its purposes and policies.

Section 1.2 Purpose of the Ordinance

It is the purpose of this Ordinance and the policy of the Municipality to regulate the use of mobile telephones, which are used while persons are operating a motor vehicle in order to protect other persons operating motor vehicles and pedestrians in the Municipality.

Section 1.3 Severability

- (A) In the event that any provision of this Ordinance is found be a court of competent jurisdiction to be invalid, unconstitutional or unenforceable, such provision shall be deemed severable from the remainder of this Ordinance and shall not cause the invalidity or unenforceability of the remainder of this Ordinance; and if a provision shall be deemed invalid only because of excessive scope or breadth, the provision shall be deemed valid to the extent of the scope and breadth permitted by law.

Section 1.4 Use; Restrictions

- (1) No person shall operate a motor vehicle on any street or highway while engaging in any conduct defined as the "Use" of a mobile telephone unless the operator maintains both hands on the applicable steering device.
- (2) Division (1) of this section does not apply to a person who is using the mobile telephone:
 - (a) To contact public safety forces, or
 - (b) While maintaining the vehicle in the Park position either on public or private property, or
 - (c) With a "*hands-free device*" which allows the operator to maintain both hands on the vehicle while using the mobile telephone.

Section 2.1 Penalties

- (A) Whoever violates any of the provisions of this Ordinance shall be guilty of a minor misdemeanor.

Section 3.1 Emergency Clause

That this Ordinance is hereby declared to be an emergency measure dealing with the daily operation of a municipal department, and provided it receives the affirmative vote of two-thirds (2/3) of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

ADOPTED: 3-22-99

ATTESTED:

Nate Felker
Clerk of Council

APPROVED:

John M. Coyne
MAYOR

Filed with the Mayor: 3-23-99